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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,947	02/12/2002	Bernd-Georg Pietras	WEAT/0214	8893
36735	7590	12/16/2004	EXAMINER	
MOSER, PATTERSON & SHERIDAN, L.L.P. 3040 POST OAK BOULEVARD, SUITE 1500 HOUSTON, TX 77056-6582			SMITH, JAMES G	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 12/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,947

Applicant(s)

PIETRAS ET AL. 

Examiner

James G. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/14/04 & 10/25/04.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 56-69 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 56-64 and 66-68 is/are allowed.
6) ☒ Claim(s) 1, 3-5, 8, 12, 19-21, 69 is/are rejected.
7) ☒ Claim(s) 2,9-11,13-18 and 65 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/25/04
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Diefendorf which shows two clamping “tongs” (3-6 and 14-20) with a pinion on the second “tong” (3-6) that engages teeth (14) on the first “tong” (14-20) and each of the “tongs” is open at both the upper and lower edges to allow for insertion of the pipe.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 19-21 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diefendorf in view of any of Smith or Jurgens.

Diefendorf shows the claimed invention except for the use of a motor to drive the gear pinion (claims 8 and 19-21) and an oil rig mounting structure (claim 69). Either Smith or Jurgens suggests that a pipe section securing device can have one tong that is gear driven by means of a motor instead of by hand and the each can be

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secured in some known manner to an oil rig. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Diefendorf by using a motor to drive the pinion gear and to mount the tool to an oil rig in some known manner because any of Smith or Jurgens suggests the use of such a motor in the same type of device, instead of a manual drive, and the mounting of the device onto an oil rig, in some known manner.

Allowable Subject Matter

5. Claims 2, 9-11, 13-18 and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 56-64, 66-68 are allowed.

Response to Arguments

7. Applicant's arguments filed 14 July 2004 have been fully considered but they are not persuasive.

The new limitation added to claim 1 is still very broad as all wrenches have an opening that is at an edge that will lead into the engagement passage, thus the claim is still unpatentable.

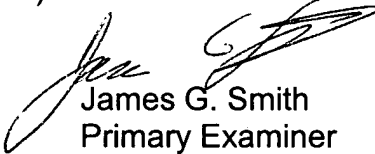
New claim 69 merely attaches the device to an oil rig, however such attachments are well known and unpatentable.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Smith whose telephone number is 571-272-4496. The examiner can normally be reached on M-Th (7:05- 4:35) Fri. off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James G. Smith
Primary Examiner
Art Unit 3723

jgs
12/13/04